

**Notice of Allowability**

Application No.

09/977,137

Examiner

Medina A Ibrahim

Applicant(s)

SUMMERS ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 09/17/03.
2. ☒ The allowed claim(s) is/are 1-2, 5-7, 9 and 17, renumbered as 1-7, respectively.
3. ☒ The drawings filed on 09 May 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)         |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____ |
| 5 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. <u>01-03</u> | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                 |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material     | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance           |
|  | 9 <input type="checkbox"/> Other _____   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Donna M. Ferber on 11/19/03.

The application has been amended as follows:

In The Claims:

Claims 10, 12-13 and 15-16 have been cancelled.

In claims 5-7, "or transfected" has been deleted.

Claim 9 (Currently amended). A method for recombinantly producing a chelon protein in a host cell, said method comprising the steps of:

a) transforming a host cell [capable of expressing a chelon protein coding sequence] with a vector comprising a promoter active in said host cell operably linked to nucleotide sequence encoding [a coding region for said ] a chelon protein , wherein said chelon protein comprises [comprising] an amino acid sequence selected from the group consisting of amino acids 1 to 107 of SEQ ID NO:4, amino acids 1 to 107 of SEQ ID NO:5, amino acids 1 to 108 of SEQ ID NO:6, amino acids 1 to 107 of SEQ ID NO:7, amino acids 1 to 107 of SEQ ID NO:8, amino acids 1 to 107 of SEQ ID NO:9, amino acids 1 to 107 of SEQ ID NO:10, amino acids 1 to 107 of SEQ ID NO:11, amino acids 1 to 107 of SEQ ID NO:12 to produce a recombinant host cell; and

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b) culturing the recombinant host cell under conditions wherein said chelon protein is expressed.

Claim 17 (Currently amended). The non-naturally occurring recombinant DNA molecule of claim 2, wherein the nucleotide sequence comprises [is the nucleotide sequence of] SEQ ID NO: 3.

Papers related to this application may be submitted to Technology Sector 1 by facsimile transmission. Papers should be faxed to Crystal Mall 1, Art Unit 1638, using fax number (703) 308-4242. All Technology Sector 1 fax machines are available to receive transmission 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30 (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Medina A. Ibrahim whose telephone number is (703) 306-5822. The Examiner can normally be reached Monday-Thursday from 8:30AM to 5:30PM and every other Friday from 9:00AM to 5:00PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Amy Nelson, can be reached at (703) 306-3218.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0196.

11/26/03

Mai



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600